



**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Herrell

Art Unit: 2171

Application No.: 09/933,666

Examiner: Nguyen, M. P.

Filed: August 22, 2001

Attorney Dkt. No.: 11011-0002

For: Method for Evaluating Employees and Aggregating their Respective Skills and Experience in a Searchable Database for Sharing Knowledge Resources

**DECLARATION UNDER 37 CFR 1.131**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**

AUG 10 2004

Technology Center 2100

Sir:

I, William R. Herrell III, hereby declare as follows:

1) I am the sole inventor of the invention described in the above-captioned patent application.

2) I am familiar with the Office Action dated July 12, 2004, and particularly the Examiner's rejection of the pending 18 claims of my patent application. In this Office Action, the Examiner has relied upon United States Patent Application Publication No. US 2002/0032636 to Shields et al. (Shields) and United States Patent Application Publication No. US 2002/0095305 to Gakidis et al. (Gakidis) to reject my claims as being obvious under 35 U.S.C. § 103(a). In the rejection, the Examiner admits that Shields does not teach my invention, but alleges that the

missing features of the invention in Shields are taught in Gakidis and that it would be obvious to modify Shields using Gakidis so as to arrive at my invention.

3) The effective filing date of the Gakidis is August 31, 2000. The effective filing date of my application is August 30, 2000, based on my provisional patent application no. 60/228,771.


4) My invention was conceived prior to August 21, 2000. The conception of my invention prior to August 21, 2000 is supported by the attached Exhibit, which is a business plan prepared by me. The business plan describes in detail a system and method wherein shares of "stock" are issued in each employee and the shares of issued stock can then be traded for evaluation purposes, see the Executive Summary, paragraph 3 thereof. Evaluations of individuals are discussed on page 8 under the **Evaluations** paragraph. Establishing of a performance trait for trading is discussed on page 5 under the 360 of 360ipo heading. A system including a database, a market trading system, and a computer for trading is explained on page 7 of the business plan.

5) Diligence is self evident in that only nine days elapsed from the time just prior to the August 21, 2000 filing date of Gakidis and my filing date of August 30, 2000 that established a constructive reduction to practice of the invention.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or

both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

  
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William R. Herrell III